

LENA C. TAYLOR

Wisconsin State Senator • 4th District

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Testimony of Senator Lena C. Taylor
Senate Committee on Labor, Elections and Urban Affairs
Senate Bill 49 – Civil Service Commission Reform
Thursday, March 19, 2009

Honorable Chairman Coggs and members of the committee:

Thank you for taking testimony on Senate Bill 49 a simple bill relating to filling vacant civil service positions in the City of Milwaukee. I am pleased to partner with Rep. Christine Sinicki in authoring this bill.

Currently, under state law, the Milwaukee Civil Service Commission may certify to the appointing authority only the top three candidates for non-management positions or the top five persons for managerial jobs.

This is a problem because deserving job seekers who have scored well on exams have been unfairly excluded from consideration simply because their scores were identical to others. The commission has been required to arbitrarily select, for example, only three non-management candidates, even if four or five or more had identical scores that should have qualified them.

Under this bill, the commission may correct that unfairness by using it's discretion to certify any number of eligible candidates ranked highest on the list, and all persons on the list with the same test score must be included on the same certification.

This is a common sense, simple solution to this problem, which is supported by the City of Milwaukee.

I encourage your support of this bill, which was approved by this committee and passed the Senate last year.

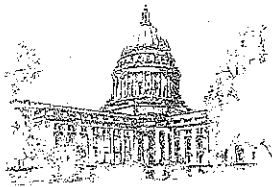
Thank you.

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WISCONSIN STATE ASSEMBLY
Christine Sinicki
STATE REPRESENTATIVE

Remarks on 2009 Assembly Bill 81 / SB 49

March 19, 2009

Honorable Chairman and members:

In November of 2005, along with Representative Lothian and others, I introduced 2005 Assembly Bill 848 to revise the civil service hiring process in the City of Milwaukee. The bill passed Urban and Local Affairs on a 7-1 vote. The bill was promptly bottled up in the Rules committee and was not scheduled for a vote on the floor. We reintroduced it in the following session as Assembly Bill 841. This session, I have reintroduced the exact same bill, 2009 Assembly Bill 81.

The City of Milwaukee, because of its unique status as Wisconsin's only first class city, is required to have a civil service commission. One of the commission's responsibilities is to oversee the civil service examinations given by the city and to maintain lists of eligible persons who take civil service examinations in the hopes of landing a civil service position with the city. If a vacancy occurs in a non-management position, and the appointing authority does not fill the vacant position by reinstatement, promotion or reduction, the commission must certify to the appointing authority, from the list of eligible candidates, the three persons ranked highest on the list. Likewise, if a vacancy occurs in a management position, the commission certifies to the appointing authority five eligible candidates (or the top 10 percent if there are more than 50 applicants).

This formula for evaluating people became known among the Milwaukee's civil service as "Rule of Three". The "Rule of Three" law dictates that the city of Milwaukee limits its consideration of prospective job applicants to only those applicants who have achieved one of the top three scores in the city's civil service examination. This rule means that hiring authorities *may not* consider applicants based on prior work history, former employer recommendations, how the applicant behaves in real life, in interviews, on phone, and many other criteria commonly used by other hiring authorities across this state. For instance, this test can not test for positive attitude, a trait many employers deem critical.

This rule was originally passed in the late 1800's and was written to protect the state's civil service from patronage and cronyism. Since then, employment law has changed to



WISCONSIN STATE ASSEMBLY
Christine Sinicki
STATE REPRESENTATIVE

require that all employees be considered "fairly and objectively". Because this component of current employment law protects employees, the State of Wisconsin eliminated the "Rule of Three" requirement in its civil service hiring process in 1997. At that time, Milwaukee was left out.

Lets update this law by eliminating this archaic bureaucratic method of filling civil service positions. Passage of this bill will make it so the commission can certify to the appointing authority *any number* of eligible candidates ranked highest on the list. Also, under this bill, individuals with the same score will be certified for consideration. This increased flexibility in the certification process could potentially reduce hiring costs for the City by making unsuccessful recruitments less likely.

I sincerely hope you will join me in voting for this common sense modernization of the Milwaukee's civil service hiring process. Thank you for listening.



Department of Employee Relations

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Assembly Bill 81/Senate Bill 49
Committee on Labor/Committee on Labor, Elections and Urban Affairs
March 18, 2009/March 19, 2009

Dear Chairperson and Committee Members:

My name is Maria Monteagudo and I am the Director of the Department of Employee Relations for the City of Milwaukee. Thank you for the opportunity to testify in support of AB 81/SB 49 relating to procedures for filling vacant civil service positions in the City of Milwaukee.

Throughout my testimony today will focus on why the City of Milwaukee needs the proposed change. I will briefly explain the current process we currently use to fill vacant civil service positions in the City of Milwaukee and will identify for you the impact the proposed change will have in terms of our ability to expand the number of individuals who can be certified for interviews and potential employment. Finally, I will summarize how Milwaukee compares to other jurisdictions in terms of local control and flexibility.

THE CURRENT SYSTEM

Section 63.39 of the Wisconsin State Statute allows the City of Milwaukee to fill vacant positions through open competitive examination.

In preparing, designing, and conducting these **examinations** we have to adhere to the federal **uniform guidelines on selection and testing**. This means that **all examinations** have to be **valid and the test results have to be reliable**.

Examinations may consist of several **components**: Written exam, Performance exam, T& E questionnaire rating, and Oral boards.

Test scores resulting from one or more examination components are used to create **civil service eligible lists**. The top 3 (for union positions) or the top 5 candidates for management positions are **certified and referred to City departments for interviews**. In both cases one additional person can be certified for each additional vacancy.

Placement on the eligible lists therefore **determines** whether an individual will be **referred** to the operating department for an interview.

EXAMPLE: for a Librarian I position, under the current system the following individuals would be certified:

The # 1 person on the eligible list with a score of 98, the # 2 person with a score of 96, and the # 3 person with a score of 95. **Under the current system** if there are other individuals with a score of 95, only one individual is certified based on tie breaking criteria.

The **tie breaking criteria** is **not necessarily based on merit principles** or factors that are **relevant** in determining successful job performance. They are:

Seniority if tied individuals are already in the classified service; (**City seniority** and not seniority in a classification related to the position in question)

Current standing in classified service; (not necessarily job related)

By experience rating; (not rated as part of the examination)

Length of City residency for the period of time preceding the date of the exam.

If everything else fails, ties are broken by **date and time of application**.

Reasons for the Proposed Change

- (1) Under the current system candidates with the same scores are treated differently. This is not consistent with our responsibility to ensure that similarly qualified candidates are able to compete for a vacancy.
- (2) The tie breaking criteria is not job related. There should be no need for tie breaking criteria because candidates with the same test scores should be treated the same.
- (3) To select the best candidates for the job, City hiring departments should have flexibility and choice. The **examination process is designed to determine** if applicants possess the **minimum KSA's** to perform the job, not the best qualified person for a particular vacancy. One eligible list may be used to fill several positions across City Departments. Positions vary by departments and a broader certification rule would allow more flexibility in matching individuals to jobs.

EXAMPLE: Civil Engineer TEST: measures knowledge of general engineering principles.

Departmental Interview: **assesses applicant's expertise in specific engineering area** (transportation, environmental, water distribution). The certification process does not take into account the specialization area. The department only receives 3 names and those individuals may not have the appropriate specific background for the vacancy to be filled.

Tests don't include Background/Reference Checks. These are done as part of the interview process. They assess motivation, initiative, and work ethics. A bad reference check may not be enough to strike an individual from an eligible list. The department is then limited to only two choices.

(4) A broader certification rule would **increase efficiency in filling vacancies.** For purposes of efficiency, we have shifted to using more **generic examinations** that can produce candidates for multiple vacancies with similar requirements. The ability for departments to expand the number of people who can be interviewed will most likely increase their willingness to use comparable eligible lists.

Comparison to Other Jurisdictions

The City of Milwaukee Board of City Service Commissioners is the only civil service board created under State Statute which **does not have authority to establish by rule the number of persons to be certified for appointment from eligible lists.** In contrast, the Milwaukee County Civil Service Commission may set the number of persons certified by rule (this number may not be less than 5). The County certifies 10 names for each vacancy with two additional names for each additional vacancy.

The **State of Wisconsin** certifies any number of names from lists based on statistical methods and personnel management principles that are designed to maximize the number of individuals being considered.

The **City of Milwaukee Fire and Police Commission** has the ability to adopt rules that establish the selection and appointment of persons employed in the police and fire departments.

Final Remarks

The proposed change **recognizes that the City of Milwaukee has a vested interest in creating and maintaining personnel practices that meet the needs of its operating departments** while complying with applicable employment regulations.

The **Board** is in a **better position to determine the rules and procedures that support valid and reliable testing procedures.** The state legislation has recognized the principle of **delegating control** over such matters to others such as **Milwaukee County (1983)** and the state of Wisconsin (1978 and 1997).

Milwaukee's ability to retain control over this important issue is critical as we strive to **meet the needs of our departments.** In the pursuit of qualified persons to fill vacancies, the City of Milwaukee must **compete in the same labor market as other public and private employers.** The restrictions under 63.39, only applicable to Milwaukee, **do not provide a level playing field.**

The amendment would result in **City departments having access to an expanded pool of candidates to choose from and eliminate the challenges associated with not being able to certify individuals with the same test scores.**

The ability to establish by rule the number of candidates to be certified will hold the Commission, my staff and I responsible for the integrity of this process and will put us in a better position to meet our needs.

Thank you.